



U.S. Department of Justice

*United States Attorney
Southern District of New York*

*The Silvio J. Mollo Building
One Saint Andrew's Plaza
New York, New York 10007*

July 22, 2014

The Honorable Richard M. Berman
United States District Judge
Southern District of New York
500 Pearl Street
New York, New York 10007

Re: United States v. Rudy Kurniawan, 12 Cr. 376 (RMB)

Dear Judge Berman:

We write in response to this Court's order of earlier today, in which the Court invited the Government's response to the defendant's suggestion that a Fatico hearing was necessary regarding certain victim loss amounts.

As an initial matter, we do not believe a Fatico hearing is necessary, as we believe that a consideration of the proof as a whole provides support for the victim claims. For instance, the defendant's challenge to the Doyle claim appears to rest on the contention that Twellman's affidavit is predicated on hearsay. But hearsay evidence may properly be considered by the Court in weighing any victim claim; stated another way, such an objection goes to the weight of the evidence and not the admissibility. And, when the Court considers the Twellman trial testimony, and the detail set forth in her affidavit, such proof is clearly sufficient to support the full amount of the Doyle claim.

We recognize, of course, that the claim made under the name Mission Fine Wines rests on the strength of the Romanee Conti letter, which, it should be noted, came before the Kurniawan allegations and conviction came to light. Nevertheless, we submit that the letter provides a basis to sustain the claim, particularly when viewed with the other proof.

In the event that the Court believes that a hearing is necessary, either because of the hearsay nature of any of the tendered proof, or because the Court believes that more proof should be offered, we are prepared to expeditiously conduct further expert analyses, by either Allan Frischman or others, and would be able to provide that proof to the Court within a week.

Thank you for considering this submission.

Respectfully submitted,

PREET BHARARA
United States Attorney

By: //s// Stanley J. Okula, Jr.
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cc: Defense Counsel